

21 C.J.S. Courts § 17

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Courts

M. Elaine Buccieri, J.D.; James Buchwalter, J.D.; Amy G. Gore, J.D., of the staff of the National Legal Research Group, Inc; and Lonnie E. Griffith, Jr., J.D.

II. Jurisdiction of Courts

B. Source, Derivation, and Assumption of Courts' Jurisdiction

§ 17. Limitation of courts' jurisdiction to constitutional or statutory grant

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

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The jurisdiction of the courts is generally limited only by the constitutional or statutory provision that is the source of that jurisdiction.

The jurisdiction of the courts, as vested or conferred by law, whether constitutional or statutory,¹ is limited to that provided by the source of jurisdiction,² and is limited by the source of the grant of jurisdiction,³ except to the extent state law is preempted by federal law, including the constitutional case-or-controversy limitation.⁴ In some states, however, state judicial power is constitutionally plenary and unencumbered by a case-or-controversy limitation.⁵

Jurisdictional rules limit the universe of controversies a court may properly consider.⁶ Jurisdictional limitations, when not constitutionally mandated, are an exercise of legislative power and so must be grounded in statutes or other legislative acts.⁷

Under state law that does not recognize limitations on the jurisdictional competence of state courts to hear cases under jurisdictional statutes, a statute that speaks in jurisdictional terms is read as merely setting limits on remedies or elements of claims the courts may grant.⁸

Jurisdiction conferred by a state constitutional provision cannot be limited⁹ or revoked by a state statute,¹⁰ and jurisdiction derived from constitutional and statutory authority cannot be limited by the parties to a controversy.¹¹

In the absence of statutory or constitutional provisions, the limits of a court's jurisdiction are delineated by the common law.¹²

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Footnotes

- 1 § 15.
- 2 Ill.—*Bettis v. Marsaglia*, 2014 IL 117050, 387 Ill. Dec. 659, 23 N.E.3d 351, 313 Ed. Law Rep. 291 (Ill. 2014).

Ohio—*State v. Noling*, 136 Ohio St. 3d 163, 2013-Ohio-1764, 992 N.E.2d 1095 (2013).

Va.—*Swalef v. Anderson*, 50 Va. App. 100, 646 S.E.2d 458 (2007).
- 3 Ariz.—*State v. Stocks*, 227 Ariz. 390, 258 P.3d 208 (Ct. App. Div. 1 2011).

Ill.—*Bettis v. Marsaglia*, 2014 IL 117050, 387 Ill. Dec. 659, 23 N.E.3d 351, 313 Ed. Law Rep. 291 (Ill. 2014).

Mass.—*Doe v. Sex Offender Registry Bd.*, 457 Mass. 53, 927 N.E.2d 455 (2010).

Neb.—*In re Anonymous 5*, 286 Neb. 640, 838 N.W.2d 226 (2013).

Tenn.—*Tennessee Environmental Council v. Water Quality Control Bd.*, 250 S.W.3d 44 (Tenn. Ct. App. 2007).
- 4 Kan.—*State ex rel. Morrison v. Sebelius*, 285 Kan. 875, 179 P.3d 366 (2008).

Nev.—*McCauley v. Pyramid Lake Paiute Tribe*, 2005 WL 6344534 (Nev Inter-Tribal CA 2005).
- 5 Or.—*Couey v. Atkins*, 357 Or. 460, 355 P.3d 866 (2015).
- 6 D.C.—*Gatewood v. District of Columbia Water and Sewer Authority*, 82 A.3d 41 (D.C. 2013).
- 7 D.C.—*Neill v. District of Columbia Public Employee Relations Bd.*, 93 A.3d 229 (D.C. 2014).
- 8 Mo.—*Nestle v. Johns*, 452 S.W.3d 753 (Mo. Ct. App. E.D. 2015).
- 9 Ill.—*In re Luis R.*, 239 Ill. 2d 295, 346 Ill. Dec. 578, 941 N.E.2d 136 (2010).

- 10 Wis.—Xcel Energy Services, Inc., v. Labor and Industry Review Com'n, 2013 WI 64, 349 Wis. 2d 234, 833 N.W.2d 665 (2013).
- 11 Mont.—LaPlante v. Town Pump, Inc., 2012 MT 63, 364 Mont. 323, 274 P.3d 724 (2012).
- 12 Conn.—State v. Casiano, 122 Conn. App. 61, 998 A.2d 792 (2010).

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